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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/697,542	08/27/1996	ROBERT S. BLOCK	003750-006	9969

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 09/26/2002

360

Please find below and/or attached an Office communication concerning this application or proceeding.

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EXAMINER

ART UNIT 2611	PAPER NUMBER 37
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7/9/02

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 16-18, 23, 24, 26-40, 42, 44-56 and 57-60 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 16-18, 23, 24, 26-30, 32-40, 42, and 44-60 is/are rejected.

☒ Claim(s) 31 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 16-18, 23, 24, 26-28, 30, 32, 34-37, 45-47, and 49-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz et al (5,758,257).

Considering claim 16, Herz discloses creating a local customer profile (see col 13 lines 12-49, customer profile meets the “local information label” limitation. The customer profile has associated with it a plurality of categories of program content including sex and violence (see col

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4 lines 62-67). Further, Herz discloses creating the local customer profile by presenting a questionnaire for determining the customer's preferences (see col 13 lines 11-15 and lines 42-50) and since the questions are used to determine the local customer profile, Herz discloses the claimed "means for receiving answers to the questions presented to the user". Herz also discloses determining the "mood" of the user based on the received questions (see col 17 line 57 - col 18 line 5, mood meets the "psychological profile" limitation). Further, the a default values for a profile are created depending on the "mood" of the user thus Herz discloses the claimed "means for assigning a value to each of the category labels based on the determined psychological profile" limitation. The values for the "mood" of the user are used to create local information label to provide appropriate programming for a user based on the user's mood (see col 17 67 - col 18 line 20 and col 26 lines 25-35).

Considering claims 17, Herz discloses presenting questions to a user which are used to for a customer profile or label, since the questions are not the actual customer profile, the questions are "indirectly" related to the category labels (see col 13 lines 10-15 and col 13 lines 40-50).

Considering claim 18, Herz discloses providing a questionnaire to user which presents descriptive phrases which describe categories of program content associated with the category labels (col 13 lines 10-15 and col 13 lines 40-50).

Considering claim 23, Herz discloses receiving a program signal with a content profile of a the program wherein the content profile has categories which identifies the content of the program (col 11 lines 30-58). Herz further discloses storing an ID code of the user to determine which

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user watched what programs (col 26 lines 30-35 and col 25 lines 35-40, col 49 lines 7-30).

Further, Herz discloses a means for a user to input the rating of a program which meets the claimed “means for inputting a signal which indicates the user’s level of enjoyment of each program presented” (col 30 lines 30-35). Further, Herz discloses providing program content to a user based on the type of programs enjoyed by the user (see col 30 lines 1-40, col 11 lines 63 - col 12 line 7).

Considering claims 24 and 26, Herz discloses providing a listing or preferred programming meeting the “menu” limitation based on the user’s level of enjoyment and on the viewing history (see col 14 lines 10-35, col 19 lines 60-65, col 30 lines 30-35).

Considering claims 27, 30 and 52, claims 27, 30 and 52 recites the same limitations as claimed in claims 16 and 23 and is therefore rejected for at least the same reasons provided above. Further claims 27, 30 and 52 recites the limitations “receiving an indication from the user that the content of the program is at least one of unacceptable and acceptable, modifying the value associated with the local category label based on the received indication from the user that the content of the program is at least one of unacceptable and acceptable and forming the local information label based on the modified value associated with the local category label”. Herz discloses that a user can modify the content value of the content profile and the customer profile if the user disagrees with the assigned content profile of the program (see col 15 lines 45-65, col 30 lines 30-35). By modifying the content profile, the user indicates that the content profile of label is unacceptable.

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Considering claim 28, Herz discloses a user having the ability to modify the content profile which would include reducing the value of the label (see col 15 lines 45-65 and col 30 lines 30-35).

Considering claim 32, Herz discloses a remote control device for entering a customer profile, thus the buttons on the remote control are associated with a local information label (see col 45 lines 56-63).

Considering claims 34 and 45, Herz discloses rating a program at a plurality of levels including profanity, violence and sex (col 11 lines 45-55) and providing an advertisement based on the user's content profile (col 47 lines 53-67). Since targetted advertisements are run during a program, and program and customized advertising are provided based on the customer content profile, Herz discloses the claimed "scanning the program information label to ascertain the instantaneous content level of the program over the duration of the program, determining one of a plurality of advertisements to be run during the program based upon the instantaneous content level of the program and scheduling one advertisement within the program at a time based on the instantaneous content of the program information label".

Considering claim 35, Herz discloses creating a customer profile for two users in a household (col 49 lines 7-27) wherein the customer profiles are received by receiving local information labels by questionnaires (col 13 lines 42-45). Further Herz discloses when two or more customers, like a husband and wife, a cluster or combined customer profile is created to accommodate two viewers (col 49 lines 7-27).

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Considering claim 36, Herz discloses a profile for each member in the household and a combination profile for two or more members. Further, Herz discloses an associated content value which identifies a level of program content (level of content met by “weights” see col 13 lines 42-50) and averaging the values for customers at the same location or household (see col 13 lines 43-55 and col 26 lines 24-40).

Considering claim 37, Herz discloses a system which receives a program signal and transmitted content profile, means for storing the local information label, and means for modifying the local information label based on the transmitted information label. In particular, Herz discloses modifying the customer profile by rating movies based on the received content files (see col 30 lines 30-34).

Considering claims 46 and 47, Herz discloses an information label which specifies at content level of sex and violence (see col 11 lines 45-58) and displaying a target advertisement after the determination of the content level (see col 47 lines 53-67). The claimed “predetermined time” is met by the time at which the advertisement is supposed to schedule (see col 29 lines 45-50).

Claims 49, 50, 51, 53, 54, 55 and 57 recites the same limitations as the claims above and is therefore rejected for at least the same reasons provided above. Note: the viewing history is met by view habits (see Herz col 46 lines 45-50) and menu is met by channel list (see Herz col 14 lines 10-35, col 19 lines 60-65, col 45 lines 34-55).

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Considering claim 56, Herz discloses the claimed wherein programs available are for viewing are represented as channels on a television (see col 45 lines 34-55).

Considering claim 58, claim 58 recites the same limitations found in the claims above and is rejected for at least the same reasons provided above. Further, claim 58 recites “means for assigning a value to each of the category labels based on the received answers”. As discussed above, Herz discloses providing a questionnaire for constructing a customer profile. The customer profile has weights for each category (see col 11 lines 45-57 and col 13 lines 40-50). The questionnaire provides assigning a value to each of the category labels based on the received answers. Further, Herz discloses modifying the content profiles, including the local customer profile, if the user disagrees with the program content context rating (see col 15 lines 45-60 and col 30 lines 29-40). Thus Herz discloses the claimed “wherein the local information label is modified based on the program context” limitation.

Considering claim 59, Herz discloses representing content in terms of written context (see “profanity” and “violence” in col 11 lines 45-57). The written context are associated with a rating, thus the context is represented by a variable.

Considering claim 60, Herz discloses transmitting bits for digital transmission thus discloses the claimed “wherein the variable is represented by bits in a transmitted information label” (see col 25 lines 1-5).

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Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 33, 44 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al.

Considering claim 33, Herz fails to disclose the claimed voice recognition system. The Examiner Takes Official Notice that the use of a voice recognition system would have been a well known quick means of identifying a viewer in a television system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Herz to include the claimed voice recognition system to provide a quick but effective means for identifying a viewer.

Considering claims 44 and 48, the limitations which are similar to the limitations recited above are rejected for at least the same reasons provided above. Further, claim 44 recites “a means for automatically identifying at least one user when the one user is in an area where the program is being presented”. Herz discloses identifying a user in an area where the program is presented by a user inputting an ID (see col 26 lines 25-40). Herz fails to disclose identifying a user via voice recognition, physical feature or fingerprint. The Examiner Takes Official Notice that the use of a voice recognition system would have been a well known quick means of

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identifying a viewer in a television system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Herz to include the claimed voice recognition system to provide a quick but effective means for identifying a viewer.

5. ²⁹ Claims ~~38~~ rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al in view of Ming et al (5,710,815).

Considering claim 29, Herz fails to disclose the claimed blocking at least a portion of the program or substituting program material for objectionable material when the value associated with the local category label is less than the value of the transmitted label.

Ming teaches by providing content labels or values for each frame, parts of a program can be edited from viewing inappropriate material when the value associated with the label category is less than the value of the transmitted label enabling a user to view most of the program (see col 8 lines 15-21 and lines 51-60). It would have been obvious providing content labels for each frames would have enabled editing only those frames which contain the objectionable material thus permitting the user to view most of the program. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Herz to include the claimed limitation to permit a viewer to view most of a program while editing out only the objectionable material.

Considering claim 38, claim 38 recites the same limitations as discussed in the claims above and are rejected for at least the same reasons provide above. Claim 38 further recites receiving information as frames of a signal and providing for prevention to access to a part of

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each frame which does not have information content which compares favorably with the local information label. Ming teaches by providing content labels or values for each frame, parts of a program can be edited from viewing inappropriate material enabling a user to view most of the program (see col 8 lines 15-21 and lines 51-60). It would have been obvious providing content labels for each frames would have enabled editing only those frames which contain the objectionable material thus permitting the user to view most of the program. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Herz to include the claimed limitation to permit a viewer to view most of a program while editing out only the objectionable material.

Considering claim 39, Herz discloses the claimed subcategories of violence and sex (see col 11 lines 49-51).

Regarding claim 40, the combination of Herz and Ming discloses the claimed limitation, wherein Herz discloses storing the local profile or label (col 45 lines 10-33) and Ming discloses receiving frames of content which can be edited based on content (see col 8 lines 15-21 and lines 51-60) which means the received information content label varies for each frame.

Considering claim 42, Herz discloses the claimed television program signal (met by program guide, settop and CATV, see col 45 lines 10-30).

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Allowable Subject Matter

6. Claim 31 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The indicated allowability of the claims is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) are provided above.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

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(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308- 5399 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier from the examiner should be directed to Vivek Srivastava whose telephone number is (703) 305 - 4038. The examiner can normally be reached on Monday - Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andy Faile, can be reached at (703) 305 - 4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305 - 3900.

VS

9/20/02


VIVEK SRIVASTAVA
PATENT EXAMINER